

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

United States of America,

Plaintiff,

v.

\$12,005 in U.S. Currency,

Defendant.

Civil Action No.: 1:20-CV-0886 (MAD/DJS)

VERIFIED COMPLAINT FOR FORFEITURE *IN REM*

The United States of America brings this verified complaint for forfeiture *in rem* against the above-captioned assets (the “defendant currency”) and alleges as follows:

NATURE OF THE ACTION

This is an action *in rem* brought pursuant to 21 U.S.C. § 881(a)(6) and Rule G of the Supplemental Rules for Certain Admiralty or Maritime Claims and Asset Forfeiture Actions. Forfeiture is sought of the defendant currency as money furnished or intended to be furnished in exchange for a controlled substance and proceeds traceable to such an exchange, in violation of 21 U.S.C. § 841.

THE PARTIES

1. Plaintiff is the United States of America.
2. The defendant currency – \$12,005 in U.S. Currency – is in the custody of the United States.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1345 and 1355.

4. This Court has *in rem* jurisdiction over the defendant currency pursuant to 28 U.S.C. § 1355(b).

5. Venue is proper in this district pursuant to 28 U.S.C. §§ 1355 and 1395.

FACTS

6. On March 6, 2020, a patrol officer with the Colonie Police Department pulled over a vehicle for committing various traffic offenses. Joshua Guillaume was driving the vehicle; Joseph Colfels was his passenger.

7. When the officer approached the vehicle, he smelled marijuana.

8. The officer subsequently searched the car and its passengers. Guillaume had a loaded, unregistered 9 mm handgun in his waistband and four Xanax tablets in his front pocket. The vehicle contained more than 24 ounces of marijuana and 41 containers of concentrated cannabis each packaged for resale.

9. Guillaume's mother, Nicole Wadsworth, arrived during the search and asked officers to turn over a set of keys that her son had on a red keychain. The officers declined.

10. Officers arrested Guillaume and transported him to the Colonie Police Station. At the station, Guillaume called Wadsworth and was overheard instructing her "to go get the shit" and stating "I don't care, break it open if you have to."

11. Meanwhile, other officers were conducting surveillance on Guillaume's residence, in Albany. At approximately 7:20 p.m., officers observed a white Ford Taurus with two occupants pull into Guillaume's driveway. Approximately ten minutes later, around 7:30 p.m., a grey Subaru with one occupant pulled into the driveway. All three individuals then entered the residence.

12. At approximately 7:55 p.m., the three individuals left the residence and drove off together in the Ford Taurus. A Colonie patrol officer stopped the vehicle, which was occupied by Guillaume's mother (Wadsworth), Guillaume's girlfriend (Alexis O'Malley) and Benito Torres.

13. Wadsworth, who was driving the vehicle, had a suspended driver's license.

14. Wadsworth was subsequently searched, and in possession of 21 amphetamine/dextroamphetamine pills and one capsule in a package labeled "amphetamine salts."

15. Officers then searched the vehicle, and found a brown leather bag in the rear passenger floor in the area where O'Malley was seated. The bag, which had a strong scent of marijuana, contained the \$12,005 in defendant currency rolled into 12 rubber bands (11 contained \$1,000 each; one contained \$1,005).

16. O'Malley asked officers to give her what she described as "my brown bag." The officers declined.

17. Wadsworth was placed under arrest and transported to the police station. After being advised of her Miranda rights, Wadsworth told officers during a recorded conversation that \$10,000 of the \$12,005 in the brown bag belongs to her: "part of that is mine, I can prove it to you, I got \$10,000 back in taxes"; it was "wire[d] ... to the bank" and "I've been taking withdrawals out at the ATM" and can prove this by "log[ging] in online and [it] will show my transactions. . . ."

18. A properly trained drug detection dog, who is trained to alert both for narcotics and marijuana, positively alerted to the scent of drugs on the brown leather bag.

19. The next day, on March 7, 2020, officers from the Colonie Police Department executed a search warrant for Guillaume's residence, in Albany. Notably, officers used the keys that Guillaume had during the traffic stop to unlock the front door of the residence, *i.e.*, the same

keys that his mother asked police to turn over the prior day. During the search, officers seized 3.5 pounds of marijuana, \$167.00 in U.S. Currency (all one-dollar bills), 73 rounds of 9mm ammunition, hundreds of plastic containers used for packaging concentrated cannabis, a vacuum sealer, a scale, and a ledger that appears to have been used to log drug transactions.

20. Guillaume was charged in Colonie Town Court with, *inter alia*, multiple drug and gun charges.

21. Wadsworth was charged in Colonie Town Court with, *inter alia*, criminal possession of a controlled substance.

22. In May 2020, Nicole Wadsworth filed an administrative claim with the Drug Enforcement Administration (DEA) for the \$12,005 in U.S. Currency. Whereas Wadsworth previously told law enforcement that she would “prove” that \$10,000 of the defendant currency was money she had received from a tax refund, she swore in her administrative claim, under penalty of perjury, that the defendant currency constituted money that she had “borrowed . . . from friends and family” so that she could bail her son out of jail.

CONCLUSION

23. The facts set forth above support a reasonable belief that the government will be able to meet its burden of proof at trial. Specifically, probable cause exists to believe that the defendant currency constitutes: (a) money furnished or intended to be furnished by a person in exchange for a controlled substance in violation of the Controlled Substances Act; (b) proceeds traceable to such an exchange; or (c) money used or intended to be used to facilitate a violation of the Controlled Substances Act.

WHEREFORE, pursuant to Supplemental Rule G, plaintiff the United States of America, respectfully requests that the Court:

- (1) Issue a Warrant of Arrest *In Rem*, in the form submitted with this Complaint;
- (2) Direct any person having any claim to the defendant currency to file and serve their Verified Claims and Answers as required by 18 U.S.C. § 983(a)(4) and Supplemental Rule G;
- (3) Enter judgment declaring the defendant property to be forfeited and condemned to the use and benefit of the United States; and
- (4) Award such other and further relief to the United States as it deems proper and just.

Dated: August 5, 2020

GRANT C. JAQUITH
United States Attorney

By: /s/ Adam J. Katz
Adam J. Katz
Assistant United States Attorney
Bar Roll No. 517894


VERIFICATION

STATE OF NEW YORK)
) ss:
COUNTY OF ALBANY)

Matthew E. Garrigan being duly sworn, deposes and states:

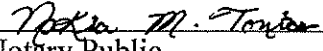
I am an Investigator with the Colonie Police Department. I have read the foregoing Complaint for Forfeiture and assert that the facts contained therein are true to the best of my knowledge and belief, based upon knowledge possessed by me and/or on information received from other law enforcement officers.

Dated this 4th day of August, 2020.

 # 497

Matthew E. Garrigan, Investigator |
Colonie Police Department |

Sworn to and subscribed before me this 4th day of August, 2020.



Notary Public

NAKIA M. TONIC
Notary Public, State of New York
Qualified in Albany County
My Commission Expires 4/10/ 21
Reg. #01TO6357055

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

UNITED STATES OF AMERICA

(b) County of Residence of First Listed Plaintiff Albany
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
Adam J. Katz, Assistant U.S. Attorney (518) 431-0247
United States Attorney's Office, 445 Broadway,
Albany, New York 12207

DEFENDANTS

\$12,005 in U.S. Currency

County of Residence of First Listed Defendant Albany
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)
Joseph Granich, Esq.

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|--|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated <i>or</i> Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated <i>and</i> Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input checked="" type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
21USC 881

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

08/05/2020

s/Adam J. Katz

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT Waived APPLYING IFP _____ JUDGE MAD MAG. JUDGE _____

DJS